

REMARKS

The Examiner has rejected all of the pending claims, namely, 1-3 and 16-23, as either being anticipated or rendered obvious in view of Myers et al., U.S. Patent No. 6,659,927 (See pages 2-4 of *Office Action* dated July 27, 2004). The Examiner indicated that the declaration filed on April 26, 2004 under 37 CFR 1.131 is ineffective to overcome the Myers et al. '927 patent because the evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the prior art reference to either a constructive reduction to practice or an actual reduction to practice (page 5 of *Office Action*). Specifically, the Examiner indicated that the dates of the exhibits shown by applicant or patent owner have been removed or blocked off (*Id.*).

In accordance with the Examiner interview on August 31, 2004, Applicant asserts that the declaration filed on April 26, 2004 establishes reduction to practice of the invention prior to the effective filing date of the Myers et al. '927 patent. Under MPEP 715.07(a), diligence need not be shown because diligence is not required after reduction to practice. In view of the declaration, it is believed that applicant has established invention of the subject matter of claims of the pending invention prior to the effective filing date of the Myers et al., '927 patent. As such, it is believed that the Myers et al. '927 patent is not prior art to the present application and withdrawal of the Examiner's rejections to the pending claims under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) is respectfully requested.

Moreover, the Smith '803 patent does not teach or suggest the patentable subject matter of claims 1-3 and 16-23. Claim recites a flush-mounted presser assembly for a die cutting machine that includes a support member having an upper surface which defines a substantially horizontal plane, and a presser movable vertically in a plane perpendicular to the horizontal plane between a first extended position spaced from the support member beneath the horizontal plane and a second retracted position beneath the horizontal plane. The presser assembly further includes a

mounting means for operatively connecting the presser to the support member. The mounting means is disposed flush with or below said horizontal plane so that said mounting means does not extend above the horizontal plane. None of the cited references teach or suggest a mounting means disposed flush with or below a horizontal plane defined by an upper surface of a support member so that the mounting means does not extend above the horizontal plane.

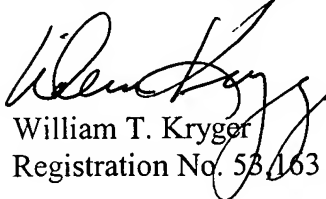
The Smith '803 patent discloses a clamp that includes a beam 1 with a vise-jaw 14, and a beam 2 with a vise-jaw 15 (page 1, lines 44-45 and lines 58-59). Two flat toggle levers 5 and 6 are intercoupled between the beams 1 and 2 (See Fig. 2). The two toggle levers 5 and 6 are pivoted together at their center by a bolt 7 (page 1 lines 73-75). The clamp also includes a bar 17 that includes a threaded end 16 opposite an end of notches 20 (page 1, lines 89-97). A dog 21 having a teeth 22 adapted to catch in the notches 20 and to hold the jaw 15 from moving (page 1, lines 97-103).

The Smith '803 patent does not teach or suggest a flush mounted presser assembly that includes, among other things, a mounting means disposed flush with or below a horizontal plane defined by an upper surface of a support member so that the mounting means does not extend above the horizontal plane. This claim flush mounted presser assembly reduces the space taken up, as well as reduces opportunities for interference with any component sliding upwardly of the support member that can occur during die cutting operations. Rather, the Smith '803 patent discloses a bar 17 that extends beyond the limits of the beams 1 and 2 in either the closed or open positions (See Figs. 1 and 2). In the Smith '803 patent, removal of the bar 17 would render the Smith clamp inoperable for its intended purpose "where a vise is needed" (page 1, lines 11-23). The Smith '803 patent thus does not teach a "flush-mounted" assembly as recited in claim 1. Claim 1 thus recites patentable subject matter not taught or suggested the cited references.

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Applicant believes that the present application of claims 1-3 and 16-23 is in proper form for allowance and such action is earnestly solicited.

Respectfully submitted,


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